



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Jowell

Norman H. Bangerter, Governor
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August 18, 1987

Mr. Robert Hagen, Director
Office of Surface Mining
Albuquerque Field Office
Suite 310, Silver Square
625 Silver Avenue, S.W.
Albuquerque, New Mexico 84102

Dear Mr. Hagen:

Re: Ten-Day Notice No. 87-02-006-006-TV-1, Beaver Creek Coal
Company, Gordon Creek 3 & 6 Mines, INA/007/017, Folder No. 5,
Carbon County, Utah

This responds to the aforementioned TDN received by Mr. William J. Malencik in our Price office. Our agreement is that Mr. Lowell Braxton is the recognized Division of Oil, Gas and Mining (DOGM) addressee for incoming TDN's. Our records show receipt of the TDN at Salt Lake City August 10, 1987, consequently I consider this response timely.

Additional follow-up work has taken place since the inspection in relation to the matter of markers on the disturbed area. After evaluating information gathered during and after the inspection, our position is that neither a TDN nor an NOV is justified.

The exterior boundary of the fence that in substance follows the boundary of the disturbed area constitutes and, in our opinion, meets the intent of the regulations. The fence posts are serving a two fold purpose: 1) the most obvious, holding up the fence and 2) not as obvious, serving as the disturbed area boundary markers.

With respect to the narrow necked road area near the entrance gate, this small area was not included in the 28 acre disturbed area calculation.

The markers are only necessary on disturbed areas by definition, this should eliminate the question of markers on the small lower road area. Further, the road is pre-public law 95-87, owned, controlled and used by others.

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INA/007/017
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In the interest of maintaining a good working relationship, Dan Guy, Beaver Creek Coal Company, has taken and/or will take the following action:

1. Additional markers have been installed on the narrow neck road near the entrance gate and other areas. These have been installed even though they believe they are not legally required.
2. Beaver Creek Coal Company shall submit an amendment to the MRP by September 15, 1987, for DOGM consideration, describing markers having a distinctive color and shall install and/or distinctly color such markers 15 days after approval.

The action taken by Mr. Guy noted in No. 1 above, in our opinion, obviates any further action on our and/or your part with respect to the instant TDN.

I must pass Beaver Creek Coal's concern to you, that by entering culverts during his inspection, your inspector violated Company safety procedures for this site. Such an activity not only placed your inspector in a potentially hazardous situation, but appears to be an indication of his lack of understanding of the role of oversight inspection. Perhaps we need to clarify the Division's position that oversight inspections by OSMRE should be conducted to establish the viability of the Utah regulatory program, and are not unilateral federal inspections. The Division can benefit from valid criticism, but competition between our agencies will not assure our mutual goal of increased environmental responsibility by the mining industry.

Best regards,



for D. R. Nielson
Director

WM:jvb
cc: D. Guy, BCCC
K. May
L. Braxton
J. Helfrich
J. Whitehead
Price Field Office
1236R-15